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Appl. No. 10/681,497  
Amdt. Dated Aug 28, 2006  
Reply to Non Compliant Notice of Aug 24, 2006

**Remarks/Arguments**

**1. Advisory Action Item 8: Affidavit or Other Evidence**

Item 8 states the affidavit under 37 CFR 1.131 dated June 19, 2006 was not entered on the grounds it was raised by the rejection over Aida in view of Lloyd on page 5 of the non-final action OA mailed 9 August 2005. However that rejection referred to Lloyd (USPN 6368529). This affidavit was submitted in response to the examiner's finding that applicant's argument of a long felt need was not persuasive—see OA of April 5, 2006 at pages 9 and 10. On page 9 the examiner cites Application Publication 2003/0071389 to Manning; the affidavit of June 29, 2006 is in response to this citation. Applicant submits that given the Manning Publication was first cited in the April, 5, 2006 OA, there are good and sufficient reasons to accept this affidavit. A copy of the original is enclosed for reference.

**2. Mohs hardness – calcium borate and zinc borate (Re: April 5<sup>th</sup> OA at page 13)**

Applicant's Dec. 22, 2005 Amendment uses the Mohs hardness of zinc borate (4.0) and colemanite (4.5) as an argument to describe why colemanite would effect the wear on tools equally, or more, than zinc borate. The references to these figures were inadvertently left out of the Amendment. The references for Colemanite are *Boron, Handbook of Deposits, Processing, Properties, and Use*, Garrett, 1998 Table 1.1 and Yadav (USPN 7,029,507) Table 2 (8:64) while the reference for zinc borate from the *Sheepscot Machine Works*. Since the argument has been made regarding Mohs hardness,

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Appellant submits there are good and sufficient reasons for the inclusion of these three references in the files.

**3. Zinc Borate and Calcium Borate Toxicology Data**

The April 5<sup>th</sup> OA at page 12 discusses toxicity of calcium borate as taught by Lloyd and Hatton (US 2002/0182431). Appellant is prepared to argue the case regarding Lloyd's teachings using materials already in the file. However Haddon's teaching is a broad based assumption that needs to be examined in the light of the existing toxicological information on both zinc borate and calcium borate. Appellant submits the reference to Haddon provides good and sufficient reasons to add the EPA Fact Sheet regarding zinc borate and the National Library of Medicine data regarding calcium borate to the file.

**4. Reference to Pera (USPN 5,066,334)**

The April 5<sup>th</sup> OA at pages 9 and 10 referenced Koskiniemi (USPN 5,482,989) for the first time in the prosecution of this application. Koskiniemi teaches calcium pyroborate, which is a synthetic borate. The Pera reference explains why calcium pyroborate is a synthetic borate and how it is produced. Since Koskiniemi was first cited in the Final Rejection, there are good and sufficient reasons to include Pera in the record.

Copies of items 1, 2, and 3 are enclosed.

Respectfully submitted,



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